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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,918	04/01/2004	Deborah A. Vargo	9602	9431

27752 7590 10/03/2006

THE PROCTER & GAMBLE COMPANY
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EXAMINER

HAND, MELANIE JO

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/815,918

Applicant(s)

VARGO ET AL.

Examiner

Melanie J. Hand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 21-34 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-16, 21-34 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed July 13, 2006 have been fully considered but they are not persuasive.

With respect to applicant's arguments regarding the prior art of Roe, Roe teaches an assembled configuration of a pant-like article in Fig. 5 that constitutes a prefastened seam. The refastenable seams taught by Roe can be fastened and refastened at any time, therefore they can be fastened prior to use, and thus be in a prefastened configuration. The temperature change element functions as a wetness sensation member in that the temperature of substantially all liquid or viscous bodily exudates is equal to the normal body temperature and will thus be sensed by said element, which will then indicate a temperature change brought about by a sensation of wetness. These responses to applicant's arguments also constitute responses to applicant's arguments regarding the failure of the prior art of Sosalla to remedy the perceived deficiencies of Roe.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 9, 11-15, 21-23, 27-30 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Roe et al (U.S. Patent Application Publication 2002/0169427).

With respect to **Claims 1-3,9,14,21-23,28-30**: Roe teaches a pant-like wearable article having a topsheet 24, backsheet 26, core 28 and temperature change element 50 that covers at least a

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portion of core 28. Element 50 has a permeable body-facing layer 52 and impermeable backing layer 54 facing said core 28 and acting as a flow control layer. Roe teaches hook and loop fastening system 40 comprised of fastening components and complimentary landing zones that defines a refastenable side seam wherein the waist regions are fastened together in an overlapping configuration to form leg openings ('961, Fig. 1). The side edges of element 50 are positioned inwardly of the article side edges, as seen in Fig. 4a. The permeable layer 52 of element 50 allows the passage of urine through to temperature change detecting substance 56 which alerts the user to the presence of urine, so detected by the fluid's higher temperature. The flow of urine in the z-direction is then prohibited by barrier layer 54.

With respect to **Claims 11,27,34**: Roe teaches a diaper having two temperature change detection elements 50a, 50b disposed parallel to one another and the longitudinal axis. (Figs. 7a, 7b) (§ 0068)

With respect to **Claims 12,13**: Roe teaches a Z-folded topsheet wherein the Z folds are disposed on the side edges and the impermeable backing layers 54a,b of the two elements 50 are disposed within the Z folds along with longitudinally extending elastic elements 92 (Claim 13) (§ 0070)

With respect to **Claim 15**: Please see the rejections of claims 9 and 11 as these rejections collectively address all of the limitations of claim 15.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4-8, 10, 16, 24-26 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roe et al ('427) in view of Sosalla et al (U.S. Patent Application Publication No. 2005/0148961).

With respect to **Claims 4,5,24,25,31,32**: Roe does not teach a secondary fastening component. Sosalla teaches by reference to U.S. Patent No. 6,645,190 to Olson et al, a hook and loop fastening system that is capable of being used in tandem with adhesive fasteners. ('190, Col. 4, lines 48-52) Since Roe teaches a hook and loop fastening system and a secondary component such as an adhesive fastener would provide additional securement, it would be obvious to one of ordinary skill in the art to modify the fastening system taught by Roe as taught by Sosalla with reference to Olson.

With respect to **Claims 6-8,10,16,26,33**: Roe does not teach graphics. Sosalla teaches active interior graphics 90 disposed on liner 42 that appear when contacted with urine. ('961, ¶ 0049) These graphics are capable of highlighting the presence of the urine detection element 50 and thus also its flow control layer, therefore it would be obvious to one of ordinary skill in the art to modify the topsheet taught by Roe so as to contain graphics as taught by Sosalla to highlight the presence of the temperature change element. As stated previously the temperature change element of Roe facilitates toilet training, therefore the graphics of the combined teaching of Roe and Sosalla are correlated with that purpose.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
Art Unit 3761

MJH
September 27, 2006

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Tatyana', written over the printed name and title.